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Before the
DISPATCHED BY Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Request for Review)	
of the Decision of)	
the Universal Service Administrator by)	
)	
Lenox Public Schools)	File No. SLD 108524
Lenox, Massachusetts)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Changes to the Board of Directors)	CC Docket No. 97-21 ✓
of the National Exchange Carrier)	
Association, Inc.)	

ORDER

Adopted: October 26, 1999

Released: October 26, 1999

By the Common Carrier Bureau:

1. The Bureau has under consideration a Letter of Appeal filed by Lenox Public Schools (Lenox) on June 11, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Lenox seeks review of the SLD's denial of its application for discounts under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we grant the request for review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.²

3. By letter dated January 19, 1999, the SLD denied Lenox's request for discounts. Lenox appealed the SLD's decision by letter dated January 28, 1999. On May 26, 1999, the SLD affirmed its initial funding decision. The Administrator's Decision on Appeal indicated that services listed by Lenox as dedicated access/Internet access included some internal

¹ Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. §§ 54.502, 54.503.

connection services.³ It further indicated that, where a particular funding request included some internal connections, the entire funding request was recategorized by SLD as internal connection services so as to "avoid the possibility of treating priority two services (Internal Connections) as priority one services (Telecommunications, Dedicated and Internet Access services)."⁴ Because internal connections were funded only when a discount level of 70 percent or above was shown, these services could not be supported for the relevant funding period insofar as Lenox's discount level was less than 70 percent.

4. In its Letter of Appeal, Lenox explains that, although it listed in an appendix to its FCC Form 471 (Item 17 appendix), certain equipment that was determined by the Administrator to constitute internal connections, Lenox was not seeking universal service discounts for those items. Rather, Lenox listed services for which it was seeking discounts as well as those for which it was not seeking discounts in compliance with the FCC Form 471 directive to list "all of the services that each service provider is providing to the billed entity." Lenox appears to have misinterpreted Item 17 of the FCC Form 471, the directions to which require applicants to list only those services for which support is sought. By including within its Item 17 appendix internal connection services for which Lenox was not seeking universal service discounts, Lenox apparently led the Administrator to conclude that Lenox was seeking discounts for these priority two services. Because the Administrator concluded that Lenox had mixed priority one (*i.e.*, Internet access service) and priority two services within its funding request, the Administrator then denied discounts for both the priority one services and the priority two services in question.

5. On appeal, Lenox claims that it requested under the Block 5 Services Ordered section of its FCC Form 471 discounts "solely for the monthly Internet Access Port Charge of \$300/month." Lenox's letter indicates that Lenox paid its service provider in full for the equipment that the Administrator appears to have determined was internal connection services and further indicates that it never intended to seek universal service discounts for those items. In view of the facts that Lenox (1) listed the priority two services in question (*i.e.*, the services the Administrator deemed to be internal connection services) only in the appendix that Lenox attached to its FCC Form 471 pursuant to Item 17 of that form, (2) included no dollar figures in connection with the services listed in its Item 17 appendix, and (3) included no itemization of charges for any priority two services under the Block 5 Services Ordered section of its FCC Form 471, it appears clear to us that Lenox did not request support for priority two services. Accordingly, we grant Lenox's request for review and remand Lenox's application to the Administrator for reprocessing of its application and issuance of a new funding commitment decision letter, based on Lenox's FCC Form 471 and any further consultations with the applicant that may be necessary, to determine whether Lenox may receive, consistent with this decision and the Commission's rules, discounts on the 6 months of Internet access port charges, at a cost of \$300 per month, that Lenox requested in Block 5

³ Letter to Henry C. Maimin, Lenox Public Schools, from Schools and Libraries Division, Universal Service Administrative Company, dated May 26, 1999 (Administrator's Decision on Appeal).

⁴ Administrator's Decision on Appeal at 1.

of its FCC Form 471.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722 (a), that the Letter of Appeal filed by Lenox on June 11, 1999 IS GRANTED to the extent indicated herein.

7. IT IS FURTHER ORDERED, that the Lenox application IS REMANDED to the Administrator for further consideration in light of this decision.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Yog R. Varma", with a horizontal line extending from the end of the signature.

Yog R. Varma
Deputy Chief, Common Carrier Bureau